

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

MAERTENS, et al.

Atty. Ref.: 2551-108; Confirmation No. 4881

Appl. No. 09/851,138

TC/A.U. 1648

Filed: May 9, 2001

Examiner: Li

For: SEQUENCES OF HEPATITIS C VIRUS GENOTYPES AND THEIR USE AS  
PROPHYLACTIC, THERAPEUTIC AND DIAGNOSTIC AGENTS

\* \* \* \* \*

May 12, 2005

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**VIA FACSIMILE**  
**(703) 872-9306**

Sir:

**FOURTH AMENDMENT UNDER RULE 116**

Responsive to the Office Action dated January 11, 2005, entry and consideration of the following amendments and remarks are requested.

**A fee for consideration and entry of this Amendment should not be required** as the applicants responded to the final Office Action of January 11, 2005 within two months of the mailing date (i.e., on February 9, 2005) of the final Office Action and an Advisory Action has not been mailed, it now being after the three month shortened statutory period from the mailing of the final Office Action, such that the shortened statutory period has still not expired. See, page 3 of the Office Action dated January 11, 2005.

BEST AVAILABLE COPY

MAERTENS, et al.  
Appl. No. 09/851,138  
May 12, 2005

A first Amendment Under Rule 116 responsive to the Office Action of January 11, 2005 was filed February 9, 2005. The undersigned has not received a response from the Examiner as to whether the Amendment filed February 9, 2005 has been entered. An Advisory Action in response to the Amendment of February 9, 2005 has not been received.

The undersigned has spoken with the Examiner on March 30, 2005 and received subsequent telephone messages from the Examiner on March 30, 2005, indicating that the previously-withdrawn Section 102 rejection of claims 63, 64 and 65 over van Doorn (J. Hepatology July 1994, vol. 21(1), pp 122-129) would be made again in a new Office Action which reopened prosecution, and invited the applicants to amend the indicated claims to further distinguish over the cited reference. A Second Amendment Under Rule 116 was filed April 1, 2005, in response.

The Examiner contacted the undersigned on April 12, 2005, indicating that the Second Amendment Under Rule 116 would not be entered and the Examiner suggested the further amendments to claims 63 and 65 which were presented in the Third Amendment Under Rule 116 filed April 18, 2005, to overcome the van Doorn reference. The amendments were made to advance prosecution and without prejudice. The applicants have not received an Advisory Action in response to the Third Amendment Under Rule 116 filed April 18, 2005.

The undersigned was again contacted by the Examiner on May 10, 2005, wherein the Examiner requested the further amendments made herein in response to concerns from an un-named "Quality Review person". The Amendments of February 9,

BEST AVAILABLE COPY

**MAERTENS, et al.**  
**Appl. No. 09/851,138**  
**May 12, 2005**

2005 and April 18, 2005 are repeated herein as the Examiner has not indicated the status of the previously-filed Amendments.

Entry of the present Amendment and allowance of the application are requested.

BEST AVAILABLE COPY

RECEIVED  
CENTRAL FAX CENTER

MAY 12 2005

**Nixon & Vanderhye PC.**

ATTORNEYS AT LAW

8TH FLOOR  
1100 NORTH GLEBE ROAD  
ARLINGTON, VIRGINIA 22201-4714

TELEPHONE: (703) 816-4000  
FACSIMILE: (703) 816-4100  
WRITER'S DIRECT DIAL NUMBER:  
(703) 816-4091

**FACSIMILE COVER SHEET**  
**PLEASE DELIVER IMMEDIATELY!!!!**

Our Ref.: 2551-106  
Your Ref.: Appln No. 09/851,138 Date: May 12, 2005

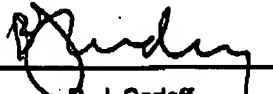
To: Examiner Li  
Firm: USPTO - Group 1648  
Facsimile No.: Facsimile No.: 7038729306 (Examiner's Fax No.: 5712730904)  
From: B. J. Sadoff

Number of Pages (including cover sheet): 11

(IF YOU DO NOT RECEIVE ALL OF THE PAGES OR ENCOUNTER DIFFICULTIES IN TRANSMISSION,  
PLEASE CONTACT US IMMEDIATELY AT (703-816-4000).

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that this paper and any noted attachments are being facsimile transmitted to the Patent and Trademark Office on April 18, 2005.

  
B. J. Sadoff  
Reg. No. 36883

**FOURTH AMENDMENT RULE 116**  
**EXPEDITED HANDLING PROCEDURES**

ATTACHMENT/S: FOURTH Amendment Under Rule 116, 2 cvr sheets with charge authorization  
(separate Courtesy Copy forwarded to Examiner by facsimile to 5712730904).

A fee for consideration and entry of this Amendment should not be required as the applicants responded to the final Office Action of January 11, 2005 within two months of the mailing date (i.e., on February 9, 2005) of the final Office Action and an Advisory Action has not been mailed, it now being after the three month shortened statutory period from the mailing of the final Office Action, such that the shortened statutory period has still not expired. See, page 3 of the Office Action dated January 11, 2005.

In re Patent Application of MAERTENS, et al. Atty. Ref.: 2551-106			
Serial No.	09/851,138	Group:	1648
Filed:	May 9, 2001	Examiner:	LI
For:	SEQUENCES OF HEPATITIS C VIRUS GENOTYPES AND THEIR USE AS PROPHYLACTIC, THERAPEUTIC AND DIAGNOSTIC AGENTS		

**CONFIDENTIALITY NOTE**

The documents accompanying this facsimile transmission contain information belonging to Nixon & Vanderhye, which is confidential and/or legally privileged. This information is only intended for the use of the individual or entity named above. IF YOU ARE NOT THE NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR TAKING OF THIS INFORMATION FOR ANY USE WHATSOEVER IS STRICTLY PROHIBITED. If you have received this facsimile in error, please immediately contact us by telephone to arrange for return of the original documents to us.

BEST AVAILABLE COPY

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**RESPONSE UNDER RULE 116  
EXPEDITED HANDLING PROCEDURES**

In re Patent Application of

Atty Dkt. 2551-108  
C# M#**VIA FACSIMILE**  
**(703) 872-9306**

MAERTENS, et al.

TC/AU. 1848

Serial No. 09/851,138

Examiner: LI

Filed: May 9, 2001

Date: May 12, 2005

Title: SEQUENCES OF HEPATITIS C VIRUS GENOTYPES AND THEIR USE AS  
PROPHYLACTIC, THERAPEUTIC AND DIAGNOSTIC AGENTS

A fee for consideration and entry of this Amendment should not be required as the applicants responded to the final Office Action of January 11, 2005 within two months of the mailing date (i.e., on February 9, 2005) of the final Office Action and an Advisory Action has not been mailed, it now being after the three month shortened statutory period from the mailing of the final Office Action, such that the shortened statutory period has still not expired. See, page 3 of the Office Action dated January 11, 2005.

**Mail Stop AF**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**AMENDMENT**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.**

Fees are attached as calculated below:

Total effective claims after amendment	0	minus highest number	
previously paid for	20 (at least 20) =	0 x \$50.00	\$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment	0	minus highest number	
previously paid for	3 (at least 3) =	0 x \$200.00	\$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add  
\$380.00 (1051)/\$180.00 (2051) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s)

One Month Extension	\$120.00 (1251)/\$60.00 (2251)
Two Month Extensions	\$450.00 (1252)/\$225.00 (2252)
Three Month Extensions	\$1020.00 (1253)/\$510.00 (2253)
Four Month Extensions	\$1590.00 (1254)/\$795.00 (2254) \$

Terminal disclaimer enclosed, add	\$130.00 (1814)/\$65.00 (2814) \$
-----------------------------------	-----------------------------------

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee	\$180.00 (1806) \$
---	--------------------

Assignment Recording Fee	\$40.00 (8021) \$
--------------------------	-------------------

Other:	\$
--------	----

**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8<sup>th</sup> Floor  
Arlington, Virginia 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
BJS:NIXON & VANDERHYE P.C.  
By Atty: B. J. Sadoff, Reg. No. 38,683Signature: 

BEST AVAILABLE COPY

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**RESPONSE UNDER RULE 116  
EXPEDITED HANDLING PROCEDURES**

In re Patent Application of

Atty Dkt. 2551-108

C# M#

MAERTENS, et al.

TC/A.U.

1848

**VIA FACSIMILE  
(703) 872-9306**

Serial No. 09/851,138

Examiner: Li

Filed: May 9, 2001

Date: May 12, 2005

Title: SEQUENCES OF HEPATITIS C VIRUS GENOTYPES AND THEIR USE AS  
PROPHYLACTIC, THERAPEUTIC AND DIAGNOSTIC AGENTS

A fee for consideration and entry of this Amendment should not be required as the applicants responded to the final Office Action of January 11, 2005 within two months of the mailing date (i.e., on February 9, 2005) of the final Office Action and an Advisory Action has not been mailed, it now being after the three month shortened statutory period from the mailing of the final Office Action, such that the shortened statutory period has still not expired. See, page 3 of the Office Action dated January 11, 2005.

**Mail Stop AF**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**AMENDMENT**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.**

Fees are attached as calculated below:

Total effective claims after amendment	0	minus highest number	
previously paid for	20 (at least 20) =	0 x \$80.00	\$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment	0	minus highest number	
previously paid for	3 (at least 3) =	0 x \$200.00	\$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add  
\$380.00 (1051)/\$180.00 (2051) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s)

One Month Extension	\$120.00 (1251)/\$80.00 (2251)
Two Month Extensions	\$450.00 (1252)/\$225.00 (2252)
Three Month Extensions	\$1020.00 (1253)/\$510.00 (2253)
Four Month Extensions	\$1590.00 (1254)/\$795.00 (2254) \$
	\$130.00 (1814)/\$65.00 (2814) \$

Terminal disclaimer enclosed, add

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 58 Information Disclosure Statement Filing Fee \$180.00 (1808) \$

Assignment Recording Fee \$40.00 (8021) \$

Other: \$

**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8<sup>th</sup> Floor  
Arlington, Virginia 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
BJS:NIXON & VANDERHYE P.C.  
By Atty: B. J. Sadoff, Reg. No. 36,663Signature: 

BEST AVAILABLE COPY